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17 Swan and Joseph Swan  
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**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ALASKA AT ANCHORAGE**

16 ENOCH ADAMS, JR., LEROY ADAMS,  
17 ANDREW KOENIG, JERRY NORTON  
18 DAVID SWAN and JOSEPH SWAN,  
19  
20 Plaintiffs,  
21  
22 v.  
23  
24 TECK COMINCO ALASKA INCORPORATED  
25  
26 Defendant.  
27  
28

Case No. A04-49 (JWS)

**[PROPOSED] ORDER  
GRANTING OBJECTIONS TO  
LIABILITY WITNESS LIST  
AND MOTIONS IN LIMINE  
TO EXCLUDE WITNESSES  
AND EVIDENCE THAT IS  
NOT RELEVANT  
(Evidence Code §402)**

24 NANA REGIONAL CORPORATION and  
25 NORTHWEST ARCTIC BOROUGH,  
26  
27 Intervenor-Defendants.  
28

PROPOSED ORDER GRANTING  
PLAINTIFFS' OBJECTIONS TO WITNESS LIST  
AND MOTIONS TO EXCLUDE WITNESSES

1 Teck Cominco and NANA jointly filed a list of 45 witnesses they anticipate calling at the  
2 liability phase of trial. Docket 197. Plaintiffs object on grounds of relevance to 33 of the  
3 witnesses, and request that the testimony of another nine be limited to relevant items. GOOD  
4 CAUSE APPEARING THEREFORE, IT IS ORDERED:  
5

6 1. Roland Booth, Bert Adams, Sr., Theodore Booth, Alvin Ott and Joyce Tsuji are  
7 precluded from testifying at trial during the liability phase as their proffered testimony is not  
8 relevant to liability.  
9

10 2. Nancy Sonafrank and Sharmon Stambaugh are precluded from testifying at trial during  
11 the liability phase as their proffered testimony is not relevant to liability.

12 3. Wayne Hall, Chuck Hingsbergen, John Key, Ed Koon, Jackie Lundberg, Keith  
13 Malone, John Martinisko, Robert Napier and Mike Schierman are precluded from testifying at  
14 trial during the liability phase as their proffered testimony is not relevant to liability.  
15

16 4. Sue Barkey, Richard Brown, Stan Capps, Peter Chapman, David DeForest, James  
17 Dryden, Steven Eide, Greg Horner, Kevin Lackey, Kent Patton, David Pillard, Mike Prieve,  
18 Mike Stanoway, William Stubblefield, and Jason Weakley are precluded from testifying at trial  
19 during the liability phase as their proffered testimony is not relevant to liability.  
20

21 5. Eva Chun and Keith Cohon are precluded from testifying at trial during the liability  
22 phase as their proffered testimony is not relevant to liability.  
23

24 6. If Mark Thompson is called as a witness at the liability phase of trial, he is precluded  
25 from testifying as to "issues pertaining to maintenance of the water balance at Red Dog, policies  
26 and procedures employed within his department, the history of waste water permitting, and  
27 efforts to comply with existing and past permits and to obtain workable permit."  
28

1 7. If Kevin Brix is called as a witness at the liability phase of trial, he is precluded from  
2 testifying about “water quality assessments for the protection of aquatic life,” and “toxicological  
3 issues pertaining to effluent.”  
4

5 8. If Mike Botz is called as a witness at the liability phase of trial, he is precluded from  
6 testifying about cyanide.

7 9. If Jeffrey Clark and Gary Coulter are called as witnesses at the liability phase of trial,  
8 they are precluded from testifying about “the company’s environmental management system,  
9 mineralization, and water balance issues.”  
10

11 10. If Anna Echter or Gretchen Mitchell are called as witnesses at the liability phase of  
12 trial, they are precluded from testifying as to conductivity based claims and WET testing.  
13

14 11. If Kathleen Willman is called as a witness at the liability phase of trial, she is  
15 precluded from testifying about water balance issues.

16 12. If James Kulas is called as a witness at the liability phase of trial, he is precluded  
17 from testifying as to “issues pertaining to maintenance of the water balance at Red Dog, policies  
18 and procedures employed within his department, the history of waste water permitting, and  
19 efforts to comply with existing and past permits and to obtain workable permits.”  
20

21  
22 DATE:

\_\_\_\_\_  
Judge of the District Court

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of January 2008, a true and correct copy of the foregoing [Proposed] ORDER granting Plaintiffs' Objections to Witness List and Motions to Exclude Witnesses was served, via electronic mail, on the below identified parties of record:

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/s/ Luke Cole

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